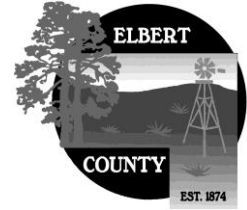




# COUNTY OF ELBERT

## COMMUNITY & DEVELOPMENT SERVICES OFFICE

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### TITLE 30. GOVERNMENT - COUNTY COUNTY PLANNING AND BUILDING CODES ARTICLE 28. COUNTY PLANNING AND BUILDING CODES PART 1. COUNTY PLANNING

C.R.S. 30-28-117 (2013)

#### 30-28-117. Board of adjustment

(1) The board of county commissioners of any county which enacts zoning regulations under the authority of this part 1 shall provide for a board of adjustment of three to five members and for the manner of the appointment of such members. Not more than half of the members of such board may at any time be members of the planning commission. The board of county commissioners shall fix per diem compensation and terms for the members of such board of adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year. Any member of the board of adjustment may be removed for cause by the board of county commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. The board of county commissioners may appoint associate members of such board, and, in the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the board, or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose.

(2) The board of county commissioners shall provide and specify in its zoning or other resolutions general rules to govern the organization, procedure, and jurisdiction of said board of adjustment, which rules shall not be inconsistent with the provisions of this part 1. The board of adjustment may adopt supplemental rules of procedure not inconsistent with this part 1 or such general rules.

(3) Any zoning resolution of the board of county commissioners may provide that the board of adjustment, in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the zoning resolution, may make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. Where feasible, special exception may be made for the purpose of providing access to sunlight for solar energy devices. The board of county commissioners may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions, as they may arise in the administration of the zoning regulations.

(4) Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses

by application to the district court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings. All meetings of the board of adjustment shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(5) The governing body of a county that has entered into an intergovernmental agreement with a municipality located or partially located within that county for the purposes of joint participation in land use planning, subdivision procedures, and zoning pursuant to the authority granted in [section 31-23-227 \(2\), C.R.S.](#), may enter into an intergovernmental agreement with that municipality for the purpose of establishing a joint zoning board of adjustment for a specific area designated in the intergovernmental agreement.

**HISTORY:** Source: L. 39: p. 301, § 16.CSA: C. 45A, § 16.CRS 53: § 106-2-16. C.R.S. 1963: § 106-2-16.L. 79: (3) amended, p. 1161, § 6, effective May 25.L. 98: (5) added, p. 689, § 1, effective May 18.

#### ANNOTATION

Law reviews. For article, "Recent Developments in Zoning Law in Colorado", see 39 Dicta 211 (1962).

Rules of procedure and evidence not strictly followed. A hearing before a board of adjustment should be conducted in an orderly manner but need not strictly conform to the rules of procedure and evidence necessary in a judicial proceeding. Monte Vista Prof'l Bldg., Inc. v. City of Monte Vista, 35 Colo. App. 235, 531 P.2d 400 (1975).

County commissioners had authority to appoint themselves to a board of adjustment; such offices are not incompatible and statutory limitation applies only to the number of members of planning commission on such board. Fedder v. McCurdy, 768 P.2d 711 (Colo. App. 1989).